IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL

Writ Petition No. 1779 of 2005 (S/S)

1. Smt. Jeewanti Rawat W/o Shri D.S. Rawat
   R/o Village Dhungsil Rawat
   P.O. Bhimtal
   District Nainital
2. Smt. Rekha Mehta W/o Shri Mahesh Chandra Mehta
   R/o Village Mishaula … Petitioner

Versus

1. State of Uttaranchal through its
   Chief Secretary, Dehradun
2. Commissioner, Kumaon Division
   Nainital
3. Additional Director, Education
   Kumaon Region, Nainital
4. M/s Kumaon Mandal Vikas Nigam Ltd.
   through its Managing Director, Oak Park
   Nainital, District Nainital … Respondents

Hon'ble B.C. Kandpal, J.

By means of this writ petition, the petitioner has sought a writ in the nature of mandamus commanding the respondents to appoint the petitioner as Class-III employees and to pay back wages w.e.f. 01.04.1996 till the petitioner is absorbed.

Brief facts as narrated in the writ petition are that the petitioner No. 1 was appointed as Assemble in M/s Kumaon Television Ltd. vide letter dated 02.03.1988 and petitioner No. 2 was appointed as Assemble in M/s Television Ltd. vide letter dated 30.05.1987, when they were retrenched M/s Kumaon Television Ltd. and M/s Teletronix Ltd. took a policy decision to wind up the Company. In consequence of the decision of winding up of the Company, the employees of M/s Kumaon Television Ltd. as well as M/s Teletronix Ltd. were to be absorbed in different

Government Departments, Corporation etc. by granting the age relaxation for the appointment.

The Government order dated 30.12.1995 was issued for absorption of the retrenched employees of the Company.

It is alleged by the petitioner that as per the Government order they have not been given suitable appointment instead the respondents have started recruitment process for filing up of the existing vacancy. Not only that it is also alleged that other similarly situated employees have been given jobs in pursuance of aforesaid Government order and letter dated 25.04.1996 which was also issued by the Principal Secretary, Uttarakhand Vikas Vibhagh, Government of U.P.

Heard learned counsel for the petitioner, Sri Shobit Saharia, learned counsel for the respondent No. 4 and perused the record.

The short question for considering for this court is whether the petitioners are entitled to be given appointment on suitable post in compliance of the Government order dated 30.12.1995 and 26.12.1996 with full salary w.e.f. 1st April, 1996 or not.

Admittedly, the petitioner was holding the post of the Assembler. Para 3 of the Government Order No. 257 dated 26.02.1996 issued by the Uttarakhand Vikas Vibhag reads as under:-

> ''सरकारी सेवा / निगमों / उपक्रमों की सेवा में भर्ती हेतु निर्धारित न्यूनतम शैक्षिक अर्हता तथा अनुभव विषयक शर्ते पूरा करने वाले टेलीट्रानिक्स/कुमायूँ टेलीविजन लिमिटेड कर्मचारी/ अधिकारी ही उक्त सेवायोजन हेतु पात्र होगें। यदि ऐसे कर्मचारी टेलीट्रानिक्स/कुमायु टेलीविजन लिमिटेड में ऐसे पद पर नियुक्त हुए थे जिनका कर्तव्य उत्तरदायित्व उस पद पर के समान है जिस पद के लिए निर्धारित शैक्षिक योग्यता रखते थे, तो यह समझा जायेगा कि ये वर्तमान पद के लिए जिनके लिए अब से अभ्यार्थी हैं, अपनी नियुक्ति के समय उपरोक्त पद के लिए निर्धारित शैक्षिक अर्हता पूर्ण करते हैं।''

So in view of the aforesaid para, it can very well be said that the petitioner fulfilled the qualification for the appointment / absorption

because entire Government order is to be read as a whole wherein it has been mentioned that the retrenched employee will be given appointment in accordance with the law of the Service Rule of 1991.

In view of the aforesaid Government Order, it was incumbent upon the respondents authority to provide suitable employment to the all wind up corporations, i.e. M/s Kumaon Television Ltd. and M/s Teletronic Ltd.

The petitioners have filed certain copies of the judgment passed by this Court earlier in the matter of other retrenched employees of the M/s Teletronic Limited as well as M/s Kumaon Televison Limited and it reveals from the perusal of those judgments that this Court had allowed the petitions filed by other retrenched employees and directed the respondents to provide the job to the petitioner in compliance of the Government Order stated above.

Accordingly, the writ petition is allowed. The respondents are directed to give appointment to the petitioner on suitable post in compliance of the Government Order dated 30.12.1995 and 26.02.1996 with full salary w.e.f. 01.04.1996 within a period of three months.

No order as to costs.

With these observations, the writ petition is finally disposed of.

(B.C. Kandpal, J.)

13.12.2005
ASWAL